



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

DEC 10 2014

**PROMPT REPLY NECESSARY
 CERTIFIED MAIL
 RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:
 SE-5J

Michael Dix, CPA
 Dix, Mobley and Shah, Inc.
 1735 Big Hill Road
 Dayton, Ohio 45439

Re: Request for Information Pursuant to Section 104(e) of CERCLA
 South Dayton Dump and Landfill
 1975 Dryden Road, Moraine, Ohio
 State ID No: OH980611388 Site ID No: B52B

Dear Mr. Dix:

The U.S. Environmental Protection Agency and potentially responsible parties (PRPs) are conducting a cleanup of the South Dayton Dump and Landfill Site that is located at 1975 Dryden Road, Moraine, Ohio. Please see Enclosure 1 for a summary of the history of this Site.

EPA is addressing this request for information to you because a predecessor firm of Dix, Mobley and Shah, Inc., is believed to have provided accounting services for Horace Boesch, Sr., Cyril Grillot and Alcine Grillot and for the South Dayton Dump Landfill. Horace Boesch, Sr., and Cyril Grillot owned the property on which the South Dayton Dump and Landfill operated and Alcine Grillot operated it.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. §9601, *et seq.*, gives EPA the authority to: 1) assess contaminated sites; 2) determine the threats to human health and the environment posed by a site; 3) clean up those sites; and 4) investigate parties having potential liability at a site.

Explanation of Potential Liability

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), PRPs may be required to perform cleanup actions to protect the public health, welfare or the environment. Under Section 107(a) of CERCLA, PRPs may be held liable for all costs EPA incurs in responding to any release or threatened release of hazardous substances at a Site. PRPs include current and former owners and operators of the Site and persons who arranged for treatment and/or disposal of any hazardous substances found at the Site.

Information Gathering

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), EPA has authority to gather information and to require persons to furnish information or documents relating to:

- a. The identification, nature and quantity of materials which have been or are generated, treated, stored, or disposed of at a facility or transported to facility;
- b. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a facility; and
- c. The ability of potentially liable parties to pay costs of the clean up.

Please respond completely and truthfully to this Information Request and its questions in Enclosure 4 within 30 days of receipt of this letter. Instructions for completion of your response are in Enclosure 2. Definitions of terms used in this Information Request and its questions are in Enclosure 3.

You may consider some information that EPA requests to be confidential. If you wish to assert a claim of business confidentiality, you must respond to the relevant questions and advise EPA that you request that EPA treat your response as confidential business information. Directions to assert a claim of business confidentiality are in Enclosure 5.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by EPA and an action in federal court to seek penalties, pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5). The provision of false, fictitious or fraudulent statements or misrepresentations may subject you to criminal penalties of up to \$10,000 or up to five years imprisonment, or both, under 18 U.S.C. § 1001. EPA has the authority to use the requested information in an administrative, civil or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

Return your response to EPA within 30 days of receipt of this Information Request. Mail the response to:

Margaret Herring, Civil Investigator
U.S. Environmental Protection Agency, Region 5
Superfund Division
Enforcement and Compliance Assurance Branch (SE-5J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Address any question about a legal matter to Thomas Nash, Associate Regional Counsel, by telephone at (312) 886-0552 or by e-mail at nash.thomas@epa.gov; address all other questions to Margaret Herring, Civil Investigator, at (312) 886-6239 or by e-mail at herring.margaret@epa.gov.

We appreciate your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence Schmitt".

Lawrence Schmitt, Acting Chief
Enforcement and Compliance Assurance Branch

Enclosures:

1. Site History
2. Instructions
3. Definitions
4. Questions
5. Confidential Business Information

Rec: T Nosh, C 14J

L. Patterson, SE-6J

M. Rafati, SE-5J

M. Herring, SE-5J

T. Quesada, SPC-7J

ENCLOSURE 1

SITE HISTORY

The South Dayton Dump and Landfill (SDDL) is a former disposal area for industrial and municipal waste. The site is approximately 80 acres and includes a 15-acre pond, as well as property now occupied by an operating asphalt plant and other businesses. The SDDL site is located near the Great Miami River and the landfill itself is separated from the river by about 350 feet of flat open land and the Great Miami River Recreation Trail. Part of the landfill is within the 100 year floodway and more than half of the landfill is within the 100 year floodplain.

Throughout the half-century operation of the South Dayton Dump and Landfill open burning, landfilling and storage of hazardous waste resulted in contamination of soil and portions of the ground water aquifer underlying the SDDL site, potentially threatening the adjacent Great Miami River. Soil contains metals that include lead, copper, mercury and other chemicals. Groundwater contamination is mainly organic chemicals such as tetrachloroethylene (TCE), vinyl chloride, and benzene. In 2006 U.S. Environmental Protection Agency and the potentially responsible parties (PRPs) signed an agreement for EPA to oversee the PRPs' investigation of the nature and extent of contamination, determine risks posed by the site to human health and the environment, and develop cleanup options.

Based on sampling of groundwater, soil gas, sub-slab air, and indoor air, EPA has documented a completed exposure pathway for vapor intrusion at the SDDL Site. Vapor intrusion occurs when chemicals in landfill materials and ground water give off gases that can rise up through the soil and seep into buildings through foundations.

To reduce the sub-slab and indoor levels of TCE and methane, EPA issued an Action Memo in October, 2012, that required the PRPs to install sub-slab depressurization systems at several on-site buildings. These systems, similar to radon mitigation systems, have been installed in several buildings along Dryden Road and are drawing TCE, methane and other vapors out of the soil under the buildings and vent them outside.

In June, 2013, under EPA oversight the PRPs took additional soil and groundwater samples in several areas across the landfill to better understand sources of groundwater contamination. The sampling confirmed several groundwater contaminant plumes. Based on the findings additional samples are planned.

ENCLOSURE 2INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Identify each answer with the number of the question to which it responds.
3. In answering each question, identify all persons and contributing sources of information.
4. For any document submitted in response to a question, indicate the number of the question(s) to which it responds.
5. Although EPA seeks your cooperation in this investigation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601, *et seq.*, (CERCLA) requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to respond adequately to requests for information.
6. You must supplement your response to EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or erroneous, you must notify EPA as soon as possible.
7. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge and regardless of source.
8. If any of the requested documents has been transferred to others, or otherwise been disposed of, identify each document, the person to whom it was transferred, and the date and reason for the transfer or disposition.
9. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures describes in Enclosure 5.

10. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate officer's full title.

11. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 5.

ENCLOSURE 2

DEFINITIONS

1. As used in these documents, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
2. The term ***person*** as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. ***The Site*** referenced in these documents shall mean the South Dayton Dump and Landfill, 1975 Dryden Road, Moraine, Ohio.
4. The term ***facility or facilities*** means property or properties located within the area of interest for the Site.
5. The term ***hazardous substance*** shall have the same definition as that contained in Section 101 (14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products. Hazardous substances include, but are not limited to: chlorinated solvents or other chemical compounds containing tetrachloroethene (PCE), trichloroethene (TCE), cis-1, 2-dichloroethene (DCE), and 1, 1, 1-trichloroethane (TCA), and asbestos containing materials (ACM).
6. The term ***pollutant or contaminant*** shall have the same definition as that contained in Section 101 (22) of CERCLA and includes any mixtures of such pollutants and contaminants with any other substances.
7. The term ***release*** shall have the same definition as that contained in Section 101 (22) of CERCLA and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or discarding of barrels, containers, tanks and other closed receptacles containing any hazardous substance, pollutant or contaminant.
8. The term ***identify*** means, with respect to a natural person, to set forth the person's full name, present or last known business address, business telephone number, business e-mail address; the present or last known home address, home and cell telephone numbers and e-mail address; and last known job title, position or business.
9. The term ***identify*** means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (for example, corporation or partnership), organization, if any, and a brief description of its business.

10. The term *identify* means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, address or addressee or recipient, and the substance or subject matter.

11. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act (RCRA)), 40 C.F.R. Parts 260-280 and 300, in which case the statutory or regulatory definitions shall apply.

12. The term *you* shall mean the person or entity responding to the questions in this Information Request.

ENCLOSURE 4**QUESTIONS**

1. Identify all persons consulted in the preparation of the answers to these questions.
2. Provide copies of all documents and records, regardless of format, in your possession or control pertaining to Horace Boesch, Sr., Cyril Grillot, and Alcine Grillot.
3. Provide copies of all documents and records, regardless of format, in your possession or control pertaining to South Dayton Dump and Landfill.
4. Identify any other documents consulted, examined or referred to in the preparation of the answers to these questions, and provide copies of all such documents.
5. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide the names and the last known addresses, telephone numbers and e-mail addresses of these persons.
6. If the firm of Dix, Mobley & Shah, Inc., or its predecessor(s) provided guidance for the organization or maintenance of business records to Horace Boesch, Sr., Cyril Grillot, and Alcine Grillot or to the South Dayton Dump and Landfill, provide a copy of this guidance. If the guidance is not available, provide a summary of the instructions.
7. To the best of your personal knowledge, or to that of the firm, what are the locations for storage of records of Horace Boesch, Sr., Cyril Grillot, and Alcine Grillot or for the South Dayton Dump and Landfill. Provide the name and the last known address, telephone number and e-mail address of the person(s) in possession of these records. .
8. What were the names of the insurance agency and agent handling policies for the South Dayton Dump and Landfill? If known, what is the successor agency? If the insurance agency or agent is known, provide the most recent address, telephone number and e-mail address.

ENCLOSURE 5

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that EPA is requesting. You cannot withhold information or records on that basis. The Code of Federal Regulations at 40 C.F.R. Part 2, Subpart B, requires that EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering all or part of the information requested in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when EPA receives it, the information may be made public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish EPA to treat the information or record as “confidential,” you must advise EPA of that fact by following the procedures described below, including the requirement for supporting your claim for confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope “confidential” and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;

4. Whether EPA or any other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why such harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;

6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(l). If you make this assertion, explain how the disclosure would tend to lessen the ability of U.S. EPA to obtain similar information in the future;

7. Any information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2,208(e), the burden of substantiating confidentiality rests with you. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205 (8). If you do not identify this information and documents as confidential, your comments will be available to the public without further notice to you.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Michael Dix CPA
 Dix Mobley and Shah Inc
 1735 Big Hill Rd.
 Dayton OH 45439

2. Article Number

(Transfer from service label)

7001 0320 0006 1459 5625

PS Form 3811, March 2001

Domestic Return Receipt

102595-01-M-1424

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

Type Type

Certified Mail

☐ Express Mail

Registered

☒ Return Receipt for Merchandise

Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

